

Planning

Growth & Development

Delegated officer report for planning application

Application no. 135759/FO/2022
Date registered valid: 12 July 2023
Proposal: Change of use to a cafe together with associated elevational alterations and installation of external container, cycle parking, external seating area and bin store.
Address: Former Public Convenience, Withington Road, Manchester, M16 7EX
Ward(s): Whalley Range Ward

Applicant: Mrs Val Torpey
Agent (if any): Rebecca Booth
Case officer: David Lawless
Tel: 0161 234 4543
Email: david.lawless@manchester.gov.uk

Recommendation: Approve
Date of recommendation: 23 September 2024

Application details

Type of application: Full Application Consent

Development type: Minor Other

Date of site visit: 1 August 2023

Standard consultations:

Printed: 24 July 2023 Expired: 14 August 2023

Neighbour notifications

Printed: 24 July 2023 Expired: 14 August 2023

Site notice

No site notice has been produced

Press advert

No press advert had been published

Departure from Development Plan: No

Environmental Statement: Not required

Description of site/building/area

This application relates to a site located to the east of the Withington Road/Moss Lane East/Chorlton Road/Upper Chorlton Road and Shrewsbury Street light-controlled junction. The site is adjoined on three sides by the rear or side gardens of a number of residential properties on Dunsmore Close. On the opposite of the various roads that make up the junction there is a mix of residential and commercial uses.

A single storey building sits on the site which was formerly used as public WC. The building has been converted, without the benefit of planning permission into a café, though since the conversion and associated elevational alterations, the café use has not traded. The site is shown below.



Listed building: No
Conservation area: No
Tree Preservation Order: No

Description of development

Change of use to a cafe together with associated elevational alterations and installation of external container, cycle parking, external seating area and bin store.

Consultations & Notification Responses

Local Businesses/Residents – No comments received.

Highway Services – Has made the following comments:

- In comparison to the former use, the level of trips generated is not anticipated to be dissimilar and as such no highways concerns are expected.
- The site is well accessed by sustainable modes.
- There is no on-site car parking associated with the development and as such, all vehicular demands associated with the site are anticipated to contribute to the level of vehicles parked on-street.
- Plans demonstrate that cycle parking is available on-site. This is acceptable to Highways.
- The applicant should be advised that all gated accesses will need to provide inward opening gates to ensure they do not impact on the adopted footway or highway.
- There will be a 2 weekly waste collection. Plans confirm that this will take place after the cycle lane c. 40m from the property. Highways would accept the waste collection from this location in principle. However, this will be subject to a service management condition which includes agreement that waste will only be collected twice a week in the agreed location and outside of the network AM and PM peaks. The draft Service and Management Plan details that deliveries will be done via the staff directly and no third party deliveries of goods are anticipated to the site. The draft Service and Management Plan suggests that deliveries will operate outside of the peak traffic hours and the TRO.
- No takeaway service will be operation from the site. This is acceptable to Highways.

Environmental Health – Suggests the imposition of a number of conditions designed to protect public health and existing levels of residential amenity.

Trafford Council – No objections to the proposal.

Policies

The National Planning Policy Framework (December 2023) – The National Planning Policy Framework sets out the Government's planning policies for England and how these should be applied. It provides a framework within which locally prepared plans for housing and other development can be produced. Planning law requires that applications for planning permission be determined in accordance with the development plan, i.e. the Core Strategy Development Plan Document and accompanying policies, unless material considerations indicate otherwise. The National Planning Policy Framework is a material consideration in planning decisions.

Paragraph 11 states that plans and decisions should apply a presumption in favour of sustainable development, which for decision-taking means:

- c) approving development proposals that accord with an up-to-date development plan without delay; or
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Paragraph 12 states that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local

planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

The Places for Everyone Plan – This plan was adopted on 21 March 2024, as such the Plan and its policies are now a material planning consideration in the determination of planning applications. The Plan and its policies must therefore be given significant weight in the planning balance. The relevant policy is set out below:

Policy JP-Strat9 (Southern Areas) – This policy states that the economic competitiveness, distinctive local neighbourhood character and environmental attractiveness of the southern areas will be protected and enhanced. There will be a strong emphasis on making as much use as possible of suitable previously developed (brownfield) land and promoting the roles of the areas' town centres and its other key assets.

Core Strategy Development Plan Document – The Core Strategy Development Plan Document 2012 -2027 ("the Core Strategy") was adopted by the City Council on 11th July 2012. It is the key document in Manchester's Local Development Framework. The Core Strategy replaces significant elements of the Unitary Development Plan (UDP) as the document that sets out the long term strategic planning policies for Manchester's future development.

A number of UDP policies have been saved until replaced by further development plan documents to accompany the Core Strategy. Planning applications in Manchester must be decided in accordance with the Core Strategy, saved UDP policies and other Local Development Documents. Relevant policies in the Core Strategy are detailed below

Policy SP1, *Spatial Principles*, - Development in all parts of the City should make a positive contribution to neighbourhoods of choice including creating well designed places that enhance or create character and protect and enhance the built and natural environment.

Policy DM1, *Development Management* – This policy states that all development should have regard to a number of specific issues, of which the following are of most relevance: -

- Appropriate siting, layout, scale, form, massing, materials and detail.
- Impact on the surrounding areas in terms of the design, scale and appearance of the proposed development. Development should have regard to the character of the surrounding area.
- Effects on amenity, including privacy, light, noise, vibration, air quality, odours, litter, vermin, birds, road safety and traffic generation. This could also include proposals which would be sensitive to existing environmental conditions, such as noise.
- Community safety and crime prevention.
- Vehicular access and car parking.
- Flood risk and drainage.

Saved UDP Policy DC26, “Development and Noise” – Policy DC26.1 states that the Council intends to use the development control process to reduce the impact of noise on people living and working in, or visiting, the City. In giving effect to this intention, the Council will consider both:

- a) the effect of new development proposals which are likely to be generators of noise; and
- b) the implications of new development being exposed to existing noise sources which are effectively outside planning control.

Policy DC26.2 states that new noise-sensitive developments (including large-scale changes of use of existing land or buildings), such as housing, schools, hospitals or similar activities, will be permitted subject to their not being in locations which would expose them to high noise levels from existing uses or operations, unless the effects of the noise can realistically be reduced. In giving effect to this policy, the Council will take account both of noise exposure at the time of receiving a planning application and of any increase that may reasonably be expected in the foreseeable future.

Issues

Principle of the Proposal – Commercial uses are located on all but one of the sites adjoining this junction and the one that is in residential use for formerly a pub. Therefore, the principle of a commercial use is acceptable. However, there have been a number of previous attempts to obtain planning permission for a commercial use on this site, with the most recent being withdrawn and the four earlier applications refused on highway safety/parking grounds, the details are as follows:

125997/FO/2020 Recv: 12.02.2020 Application Withdrawn - 14.04.2020	Change of use of former public convenience to cafe (A3) with elevational alterations
101424/FO/2013/S1 Recv: 25.04.2013 Application Refused - 19.06.2013	Use of former public convenience as a shop including elevational alterations
100362/FO/2012/S1 Recv: 31.08.2012 Application Refused - 19.10.2012	Change of use of public convenience (Sui Generis) to Kiosk Shop Unit (Use Class A1) including elevation alterations to create shop front with shutters and vehicular crossing to car parking space.
087194/FO/2008/S1 Recv: 18.07.2008 Application Refused - 12.09.2008	Change of use of vacant toilet building to retail shop (A1)
078935/FO/2006/S1 Recv: 27.04.2006 Application Refused - 22.06.2006	Change of use from public toilet to office with single storey extensions to the side and rear

The issue of highway safety, particularly around the need to service the unit, has once again been the main issue in relation to the current proposal. However, the applicant has worked closely with Highway Services and they now believe the proposal is approvable on the proviso a service/management plan condition is attached to any approval granted.

Pedestrian and Highway Safety – The Withington Road/Moss Lane East/Chorlton Road/Upper Chorlton Road and Shrewsbury Street junction has undergone works with the introduction of improved pedestrian/cyclist crossing points, associated yellow line markings and building the pavement out in front of the application site. This can be seen on the image below (the site is annotated by a red dot). The results of this are that no one can legally park in front of the site to service the café.

Following discussions with Highways Services, which involved a better understanding of the service requirements of the café, the servicing of the site (refuse collection and deliveries) from the area marked by a green box below was considered acceptable. The use of this area for the servicing of the site would be subject to condition no. 4.

Given these servicing arrangements and the fact it is not anticipated the proposal would generate large amounts of traffic to and from the area, it is not considered that the proposed café use would have a detrimental impact upon the existing levels of pedestrian and highway safety enjoyed within the vicinity of the site.



Residential Amenity – While there are a number of dwellinghouses to the rear of the site, it is considered that with the imposition of a number of conditions (nos. 3, 5, 6, 7 and 8) the impact can be controlled and any detrimental impact limited. For this reason, it is not believed that the proposal would have an unduly detrimental impact upon the levels of residential amenity enjoyed by the residents of the nearest dwellinghouses on Dunsmore Close.

Visual Amenity – Prior to its conversion into a café, the WC building, as can be seen below, had fallen into disrepair and had been subjected to vandalism.



The applicant has undertaken a number of elevational alterations to the building by inserting doors and windows, painting the brick work and installing a new roof. These improvements have undoubtedly improved the appearance of the building and as such it is not considered that the proposal would have a detrimental impact upon the levels of visual amenity enjoyed at this busy junction.



The siting of the shipping container to the side of the building was a potential cause for concern but given it is painted black it is not that discernible given the black perimeter fencing at the side and rear.

Waste Management – The applicant would be required by condition (no. 4) to submit a waste management strategy for the use.

Air Quality – Given the prevalence of public transport options to the front of the site and the lack of car parking, it is not considered that the proposal would significantly increase vehicle movements in the area. Accordingly, it is not considered that the proposal would have an impact on air quality levels in the vicinity of the site.

Ecology – There are no ecological features on the site.

Other Legislative Requirements

Equality Act 2010 – Section 149 (Public Sector Equality Duty) of the Equality Act 2010 requires due regard to the need to: Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act and; Advance equality of opportunity between persons who share a protected characteristic and persons who do not share it. The Equality Duty does not impose a legal requirement to conduct an Equality Impact Assessment. Compliance with the Equality Duty involves consciously thinking about the aims of the Equality Duty as part of the process of decision-making.

Human Rights Act 1998 considerations – This application needs to be considered against the provisions of the Human Rights Act 1998. Under Article 6, the applicants (and those third parties, including local residents, who have made representations) have a right to a fair hearing and to this end the local planning authority must give full consideration to their comments.

Protocol 1 Article 1, and Article 8 where appropriate, confer(s) a right of respect for a person's home, other land and business assets. In taking account of all material considerations, including

Council policy as set out in the Core Strategy and saved policies of the Unitary Development Plan, the Director of Planning, Building Control & Licensing has concluded that some rights conferred by these articles on the applicant(s)/objector(s)/resident(s) and other occupiers and owners of nearby land that might be affected may be interfered with but that that interference is in accordance with the law and justified by being in the public interest and on the basis of the planning merits of the development proposal. She believes that any restriction on these rights posed by the recommendation given is proportionate to the wider benefits of and that such a decision falls within the margin of discretion afforded to the Council under the Town and Country Planning Acts.

Recommendation: Approve

Article 35 Declaration

Officers have worked with the applicant in a positive and proactive manner based on seeking solutions to issues arising from the consideration of this application.

Condition(s) to be attached to decision for approval OR Reasons for recommendation to refuse

1) The development must be begun not later than the expiration of three years beginning with the date of this permission.

Reason - Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990.

2) The development hereby approved shall be carried out in accordance with the following drawings and documents:

- a) Drawing PL-001 rev P1, received on 15 December 2023
- b) Drawing PL-002 rev AB4, received on 3 September 2024
- c) Drawing PL-003 rev P1, received on 12 July 2023

Reason - To ensure that the development is carried out in accordance with the approved plans. Pursuant to policies SP1 and DM1 of the Manchester Core Strategy.

3) The premises shall not be open outside the following hours:-

0800hrs to 2100hrs

Reason - In interests of residential amenity in order to reduce noise and general disturbance in accordance with saved UDP Policy DC26 and Policies SP1 and DM1 of the Manchester Core Strategy.

4) Prior to the commencement of the use hereby approved, a Service and Management Plan, detailing the following, shall be submitted to and be approved by the City Council as Local Planning Authority:

- a) A scheme for the storage and disposal of refuse.
- b) Arrangements for the delivery of goods to the premises

Reason - In the interest of pedestrian and highway safety and residential amenity, pursuant to Policies SP1 and DM1 in the Manchester Core Strategy.

Please see associated informative.

5) a) The premises shall be acoustically insulated and treated to limit the breakout of noise in accordance with a noise study of the premises and a scheme of acoustic treatment that has been submitted to and approved in writing by the City Council as local planning authority. The scheme shall be implemented in full before the use commences or as otherwise agreed in writing by the City Council as local planning authority.

b) Prior to occupation of the development a verification report will be required to validate that the work undertaken throughout the development conforms to the recommendations and requirements in the approved acoustic consultant's report. The report shall also undertake post completion testing to confirm that acceptable criteria have been met. Any instances of non-conformity with the recommendations in the report shall be detailed along with any measures required to ensure compliance with the agreed noise criteria.

Reason - To safeguard the amenities of the occupiers of the building and occupiers of nearby properties, pursuant to saved UDP Policy DC26 and Policies SP1 and DM1 in the Manchester Core Strategy.

6) The external areas within the application site shall only be used in accordance with a schedule of days and hours of operation submitted to and approved in writing by the City Council as Local Planning Authority.,

Reason - To safeguard the amenities of the occupiers of nearby properties, pursuant to saved UDP Policy DC26 and Policies SP1 and DM1 in the Manchester Core Strategy.

7) No amplified sound or any music shall be produced or played on any part of the site outside of the building.

Reason - To safeguard the amenity of nearby occupiers, pursuant to saved UDP Policy DC26 and Policies SP1 and DM1 of the Manchester Core Strategy.

8) a) Externally mounted ancillary plant, equipment and servicing shall be selected and/or acoustically treated in accordance with a scheme designed so as to achieve a rating level of 5dB (LAeq) below the typical background (LA90) level at the nearest noise sensitive location. Prior to commencement of the use hereby approved the scheme shall be submitted to and approved in writing by the City Council as Local Planning Authority in order to secure a reduction in the level of noise emanating from the site. The scheme shall be implemented in full before the use commences or as otherwise agreed in writing by the City Council as Local Planning Authority.

b) Prior to the operation of the scheme a verification report shall be submitted to and approved in writing by the City Council as Local Planning Authority to validate that the work undertaken throughout the development conforms to the recommendations and requirements in the approved acoustic report. The report shall also undertake post completion testing to confirm that the noise criteria have been met. Any instances of non-conformity with the recommendations in the report shall be detailed along with any measures required to ensure compliance with the agreed noise criteria.

Reason - To minimise the impact of the development and to prevent a general increase in pre-existing background noise levels around the site, pursuant to saved UDP Policy DC26 and Policies SP1 and DM1 in the Manchester Core Strategy.

Informatives

1) Informative for Condition 4 (Service and Management Plan) - The Service and Management Plan must include the following information:

a) A scheme for the storage and disposal of refuse - Estimated volumes and types of waste produced by the development; details of internal and external stores for both waste and recycling, including any plans and designs; location of the proposed collection point; details of how waste will be transferred between stores and to the collection location; and details of number and capacity of bins proposed and collection frequency.

Please see 'Waste Proforma v1.0' - refer to guidance at:

http://www.manchester.gov.uk/downloads/download/6048/waste_management_strategy

b) Arrangements for the delivery of goods to the premises - The Service Plan should include timings, frequency and location of deliveries.

Appendix 1 – List of consultees & neighbours notified

Highway Services

Environmental Health

Corporate Property

Trafford Council

41 Upper Chorlton Road, Manchester, M16 7RW

Flat 8, 39 Upper Chorlton Road, Manchester, M16 7RW

Flat 7, 39 Upper Chorlton Road, Manchester, M16 7RW

Flat 6, 39 Upper Chorlton Road, Manchester, M16 7RW

Flat 5, 39 Upper Chorlton Road, Manchester, M16 7RW

Flat 4, 39 Upper Chorlton Road, Manchester, M16 7RW

Flat 3, 39 Upper Chorlton Road, Manchester, M16 7RW

Flat 2, 39 Upper Chorlton Road, Manchester, M16 7RW

Flat 1, 39 Upper Chorlton Road, Manchester, M16 7RW

Flat 2, 37 Upper Chorlton Road, Manchester, M16 7RW

1 Withington Road, Manchester, M16 7BW

Flat 1, 37 Upper Chorlton Road, Manchester, M16 7RW

2B Withington Road, Manchester, M16 8AA

Flat 2, 2 Withington Road, Manchester, M16 8AA

Flat 1, 2 Withington Road, Manchester, M16 8AA

15 Dunsmore Close, Manchester, M16 7EW

17 Dunsmore Close, Manchester, M16 7EW

13 Dunsmore Close, Manchester, M16 7EW

11 Dunsmore Close, Manchester, M16 7EW

180 Chorlton Road, Chorlton-cum-Hardy, Stretford, Manchester M16 7WW

178 Chorlton Road, Chorlton-cum-Hardy, Stretford, Manchester M16 7WW

171 Chorlton Road, Stretford, Manchester M16 7WS

175 Chorlton Road, Stretford, Manchester M16 7WS

1 Moss Lane West, Stretford, Manchester M15 5PQ

2 Upper Chorlton Road, MANCHESTER, M16 7RN

176 Chorlton Road, Chorlton-cum-Hardy, Stretford, Manchester M16 7WW

173 Chorlton Road, Chorlton-cum-Hardy, Stretford, Manchester M16 7WW

Appendix 2 – Planning constraints

Article 4 Direction - Removal Of PD Rights Change Of Use From Class C3 To Class C4

Aircraft Safeguarding Zone - Aircraft Safeguarding Zone - All Exceeding 90M

Flood Zones Type 2 (low to medium risk) -

Area Team Boundary - Name: SOUTH AREA